

**IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE**

STATE OF TENNESSEE,)	
)	
Petitioner,)	
)	
v.)	No. _____
)	
LEVEL PROPANE GASES, INC.,)		
an Ohio corporation,)	
)	
Respondent.)	
)	

AGREED ORDER

This cause came to be heard on the State of Tennessee’s Petition and the parties’ Assurance of Voluntary Compliance, and the Court is of the opinion that said Assurance of Voluntary Compliance should be approved. It is therefore

ORDERED, ADJUDGED, and DECREED that the Assurance of Voluntary Compliance annexed hereto as Exhibit A and incorporated herein by reference, and hereby made a part of this Order be, and the same hereby is approved, and it is further

ORDERED, ADJUDGED, and DECREED that Respondent shall comply with the terms thereof unless rescinded by the parties or modified by this Court for good cause shown.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED as follows:

(A) Jurisdiction of this Court over the subject matter herein and over the person of the Respondent for the purposes of entering into and enforcing this Agreed Order and the Assurance is admitted. Jurisdiction is retained by this Court for the purpose of enabling the State to apply such further orders and directions as may be necessary or appropriate for the construction, modification or execution of this Agreed Order and Assurance, including enforcement of compliance therewith and assessment of penalties for violation(s) thereof. Pursuant to Tenn. Code Ann. § 47-18-107, venue as to all matters between the parties relating hereto or arising out of this Agreed Order and Assurance is solely in the Circuit Court of Davidson County, Tennessee.

(B) As required in the Assurance and Agreed Order, Respondent shall provide to the Pennsylvania Attorney General a certified or cashier's check in the amount of Seven Hundred Thousand and 00/100 dollars (\$700,000.00). Of that amount the State of Tennessee shall receive Ninety Thousand and 00/100 dollars (\$90,000.00). This payment shall be furnished to the Attorney General as set forth in the Assurance. The payment to the State of Tennessee shall be used for the purposes set forth as follows:

- (1) The sum of Fifty Thousand and 00/100 Dollars (\$ 50,000.00) to the State of Tennessee for attorneys' fees and costs of investigation, prosecution and monitoring for compliance of this matter, which may be used for consumer protection purposes at the sole discretion of the Attorney General.
- (2) The sum of Forty Thousand and 00/100 Dollars (\$40,000.00) to the State of Tennessee to be paid to the General Fund of the State of Tennessee.
- (3) The payments shall first be applied to the Attorney General's attorneys' fees and costs and once that obligation is complete, payments shall be applied to the General Fund of the State of Tennessee.

(C) In addition to Paragraph 45 of the Assurance that provides for restitution to consumers, Respondent shall:

In the event, Respondent is unable to locate Tennessee consumers entitled to restitution under the Assurance, those funds due such consumers shall be treated as unclaimed property in the possession of the State of Tennessee pursuant to the Uniform Disposition of Unclaimed Property Act, Tenn. Code Ann. § 66-29-101, *et seq.* These funds may be delivered to the Treasurer prior to the statutory due date. The Respondent shall provide a report to the Attorney General and Reporter within four (4) months of the entry of the Order which details the amounts delivered to the Treasurer for treatment as unclaimed property under the State statute. The Respondent shall provide all information necessary to the State Treasurer's office to appropriately handle such funds as unclaimed property as set forth by statute and regulation.

(D) Respondent hereby waive any and all rights which it may have to be heard in connection with judicial proceedings upon the Petition, Assurance and Agreed Order.

(E) This Agreed Order and the Assurance shall only be enforceable by the parties to this action.

(F) The terms of this Assurance and Agreed Order shall include the following as provided for in Tennessee law:

- (1) Pursuant to Tenn. Code Ann. § 47-18-109, nothing in this Assurance or Agreed Order shall be construed to affect any private right of action that a consumer may hold against the Respondent.
- (2) Respondent understands that upon execution and filing of this Agreed Order and Assurance, any subsequent failure to comply with the terms hereof is *prima facie* evidence of a violation of the Tennessee Consumer Protection Act.

- (3) Respondent understands that any knowing violation of the terms of this Assurance shall be punishable by civil penalties of not more than One Thousand Dollars (\$1,000.00) for each violation, in addition to any other appropriate penalties and sanctions, including but not limited to contempt sanctions and the imposition of attorneys' fees and civil penalties.
- (4) Pursuant to Tenn. Code Ann. § 47-18-107(c), an Assurance of Voluntary Compliance shall not be considered an admission of prior violation of the Tennessee Consumer Protection Act.
- (5) Nothing in this Agreed Order or Assurance constitutes an agreement by the State of Tennessee concerning any characterization of the amounts paid hereunder for the purposes of any proceeding under the Internal Revenue Code or any state tax laws.
- (G) All costs associated with the filing and distribution of this Agreed Order, Assurance and

Petition and any other incidental costs or expenses incurred thereby shall be borne by Respondent. No costs shall be taxed against the State as provided by Tenn. Code Ann. § 47-18-116. Costs shall be taxed to Respondent.

IT IS SO ORDERED.

JUDGE

JOINTLY APPROVED AND
SUBMITTED FOR ENTRY:

FOR THE STATE:

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